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SCULLY, SCOTT, MURPHY & PRESSER
400 Garden City Plaza
Garden City, NY 11530

EXAMINER

HECKENBERG JR, DONALD H

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| ART UNIT | PAPER NUMBER |
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1722

DATE MAILED: 12/15/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/923,562

Applicant(s)

CALVIN ET AL.

Examiner

Donald Heckenberg

Art Unit

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 06 October 2003.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-26 is/are pending in the application.
- 4a) Of the above claim(s) 1-6 and 20-26 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 7-10, 12-14, and 18-19 is/are rejected.
- 7) ☒ Claim(s) 11 and 15-17 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 11 February 2002 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. §§ 119 and 120

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 13) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application) since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.
a) ☐ The translation of the foreign language provisional application has been received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121 since a specific reference was included in the first sentence of the specification or in an Application Data Sheet. 37 CFR 1.78.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) = .
- 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: .

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1. Applicants' election of Group III (claims 7-9) is acknowledged. Because Applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).

2. The disclosure is objected to because of the following informalities:

The specification at p. 5, l. 18 recites "pre-curing area 110." Based on the disclosure, it's apparent this should recite "curing area 112" instead. Appropriate correction is required.

Also at p. 5 of the specification, l. 20 refers to "end position 150," while ll. 21-22 refer to "control means...150" A reference numeral can only designate one part. Thus, one of these descriptions is incorrect. It appears from the description that 150 is being used to designate the control means as opposed to the end portion. Appropriate correction is required.

3. Claims 10 and 12 are objected to as being dependent on a non-elected invention. As indicated in the restriction requirement set forth in the previous Office Action, from the structures described in these claims, as well as from the disclosure of the whole application, it appears as though this

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is a typographical error, and that these claims should instead depended from claim 8. Therefore, claims 10 and 12 were included with the Group III instead of Group I as listed above, and will be examined as such on their merits below.

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

5. Claims 7-10, 12-14, and 18-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Wang et al. (U.S. Pat. No. 5,965,172).

Wang discloses an article handling apparatus for moving contact lens carriers around a defined area as part of a contact lens production system.

Wang discloses the apparatus to comprise a first set of handling devices (including, among other structures, conveyors 27, 29, & 32, and sequencing structure 40) for receiving a multitude of contact lens carriers (12a and 12b). The devices form a first array of lens carriers in a first section of the area, with the first section being the left side of the

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apparatus as shown in figure 1, wherein the lens carriers travel from sequencing apparatus (40) to the molding filling apparatus (50), and the first array being defined in the tunnel (46) wherein the lens carriers are aligned in a row one next to each other (see figure 1). The first set of handling devices move the lens carriers through the first section (see figure 1).

Wang further discloses the apparatus to comprise a second set of handling devices (including, among other structures, conveyors 32b and 32c and walking beam 180) for receiving contact lens carriers from the first section. The second set of handling devices form a second array of lens carriers in a second section, the second section being the right side of the apparatus as shown in figure 1 wherein the lens carriers travel through the polymerizing chamber (75), and the second array being formed in the polymerizing chamber (see figure 1). The second set of handling devices moves the lens carriers of the second array through the second section (see figure 1).

Wang further discloses the first set of devices to comprise a first assembly (including structures 22 & 24, and conveyors 27 & 29) for assembling a group of lens carriers in a row in a first position, with the neighboring carriers in a row contiguous to each other (see figure 7a). A second assembly (designated as sequencing apparatus 40) is provided for moving

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the row of lens carrier from the first position into the first section of the area (see figures 7a, 8a-c, and 9). A third assembly (including conveyor 32) is provided for moving the row of lens carriers across the first section and into a final position of the area (see figure 1). A fourth assembly (designated handing apparatus 55) moves the row of lens carriers from the final position and out of the first section (see figure 1).

Wang further discloses the first assembly to include a support member (16) and an arm mounted on the support member for movement there along (figure 7a). Means are provided to move the arm between first and second position and engage the lens carriers and assemble the group of lens carriers in a row (col. 10, l. 14 - col. 11, l. 16).

Wang also discloses the second assembly to comprise an arm (144) supported by a support member (148). Means are provided to move the arm relative to the support member as such to engage the row of lens carriers in the first position and push the row of lens carriers from the first position and into the first section (see figure 8c, and col. 13, ll. 41-55).

Wang further discloses the fourth assembly to include means (153a & 153b) to engage the row of lens carriers in the final position, and push the lens carriers of the row in a first

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direction, wherein the lens carriers of the row are located, one carrier at a time, in a discharge position (figure 9). Means (154a and 158) are provided to engage each of the lens carriers of the row, one carrier at a time, when the means carriers are in the discharge position and move the lens carriers out of the first section (see figure 9).

Wang also discloses the second set of devices to comprise a first assembly (including, among other structures, 157) for forming a row of lens carriers in a first position in the second section, the first position being adjacent to the pushing structure (45) wherein neighboring carriers in the row are contiguous to each other (see figures 1 & 9). A second assembly (including, among other structures, conveyors 31a, 31b) is provided for moving the row of lens carriers through a sequence of positions in the second section and to a final position therein (figure 1). A third assembly (including, among other structures, demolding apparatus 90) is provided for moving the row of lens carriers out of the second area.

Wang further discloses the third assembly of the second set of devices to comprise a carrier receiver (180) located adjacent to the final row position (see figure 20). A subassembly (186a and 186b) is provided for engaging the lens carriers in the final row position and moving the lens carriers, one at a time,

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onto the carrier receiver (col. 24, ll. 35-53), the subassembly comprising a pair beams (186a and 186b). Means (202) are also provided to push the lens carriers off the carrier receiver and out of the second section (see figure 20).

6. Claims 11 and 15-17 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

7. The following is a statement of reasons for the indication of allowable subject matter:

The prior art of record fails to teach or suggest an article handling apparatus for moving contact lens carriers as in the combination recited in claims 11 or 15.

The closest prior art disclosed by Wang is described above. Wang does not teach or suggest the third assembly of the first set of devices to comprise a support member, an arm subassembly, and an means to move the arm subassembly as recited in claim 11. Nor does Wang teach or suggest the second assembly of the second set of devices to comprise a support means, a pusher subassembly and a means to move the pusher subassembly as recited in claim 15.

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8. The following references, not relied upon, are cited as being pertinent to the instant application:

Martin et al. (U.S. Pat. 5,578,331) discloses an automated apparatus for preparing contact lenses.

Lepper et al. (U.S. Pat. No. 5,607,642) discloses a contact lens carrier handling apparatus.

Parnell, Sr. et al. (U.S. Pat. No. 5,895,192) discloses contact lens carrier handling apparatus.

9. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Donald Heckenberg whose telephone number is (703) 308-6371. The examiner can normally be reached on Monday through Friday from 9:30 A.M. to 6:00 P.M.


If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wanda Walker, can be reached at (703) 308-0457. The official fax phone number for the organization where this application or proceeding is

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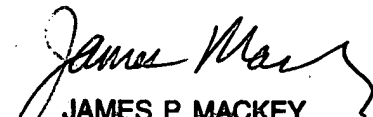
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assigned is (703) 972-9306. The unofficial fax phone number is
(703) 305-3602.



Donald Heckenberg
December 8, 2003



JAMES P. MACKEY
PRIMARY EXAMINER

12/9/03